

B-Engrossed
House Bill 2839

Ordered by the Senate June 4
Including House Amendments dated April 21 and Senate Amendments
dated June 4

Sponsored by COMMITTEE ON RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows either party entering into domestic partnership to retain surname or to change surname to surname of other party or hyphenated combination of surnames of both parties.

Allows taxpayer to adjust taxable income to account for health insurance benefit paid by taxpayer's employer for health insurance coverage of taxpayer's domestic partner.

Limits applicability to taxpayer eligible for income tax subtraction under state law as in effect prior to passage of domestic partnership legislation.

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to domestic partnership; creating new provisions; amending sections 3, 4, 6 and 8, chapter
3 99, Oregon Laws 2007; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 3, chapter 99, Oregon Laws 2007, is amended to read:

6 **Sec. 3.** As used in sections 1 to 9, **chapter 99, Oregon Laws 2007 (Oregon Family Fairness**
7 **Act)** *[of this 2007 Act]*:

8 (1) "Domestic partnership" means a civil contract **described in sections 1 to 9, chapter 99,**
9 **Oregon Laws 2007,** entered into in person between two individuals of the same sex who are at least
10 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon.

11 (2) "Partner" means an individual joined in a domestic partnership.

12 **SECTION 2.** Section 4, chapter 99, Oregon Laws 2007, is amended to read:

13 **Sec. 4.** (1) *[The following domestic partnerships are]* **A domestic partnership is prohibited and**
14 **void when:**

15 (a) *[When]* Either party to the domestic partnership had a partner, wife or husband living at the
16 time of the domestic partnership **unless the partner, wife or husband was the other party to**
17 **the domestic partnership.**

18 (b) *[When]* The parties to the domestic partnership are first cousins or any nearer of kin to each
19 other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of
20 the civil law. However, when the parties are first cousins by adoption only, the domestic partnership
21 is not prohibited or void.

22 (2) When either party to a domestic partnership is incapable of making the civil contract or
23 consenting to the contract for want of legal age or sufficient understanding, or when the consent
24 of either party is obtained by force or fraud, the domestic partnership is void from the time it is so

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 declared by a judgment of a court having jurisdiction of the domestic partnership.

2 **SECTION 3.** Section 6, chapter 99, Oregon Laws 2007, is amended to read:

3 **Sec. 6.** (1) Two individuals wishing to become partners in a domestic partnership may complete
4 and file a Declaration of Domestic Partnership with the county clerk.

5 (2) In accordance with the requirements of this section, the county clerk shall register the
6 Declaration of Domestic Partnership in a domestic partnership registry and return a copy of the
7 registered form and a Certificate of Registered Domestic Partnership to the partners in person or
8 at the mailing address provided by the partners.

9 (3) An individual who has filed a Declaration of Domestic Partnership may not file a new Dec-
10 laration of Domestic Partnership or enter a marriage with someone other than the individual's reg-
11 istered partner unless a judgment of dissolution or annulment of the most recent domestic
12 partnership has been entered. This prohibition does not apply if the previous domestic partnership
13 ended because one of the partners died.

14 (4) Each [*person*] **individual** signing a Declaration of Domestic Partnership consents to the ju-
15 risdiction of the circuit courts of Oregon for the purpose of an action to obtain a judgment of dis-
16 solution or annulment of the domestic partnership, for legal separation of the partners in the
17 domestic partnership or for any other proceeding related to the partners' rights and obligations,
18 even if one or both partners cease to reside in, or to maintain a domicile in, this state.
19 Notwithstanding ORS 107.086, a petition for dissolution or annulment of the domestic partnership,
20 for legal separation of the partners in the domestic partnership or for any other proceeding related
21 to the partners' rights and obligations may be filed in the county in which either the petitioner or
22 respondent last resided.

23 (5) On the Declaration of Domestic Partnership, each individual who wants to become a partner
24 in a domestic partnership shall:

25 (a) State that the individual is at least 18 years of age and is otherwise capable to enter into
26 a domestic partnership at the time the individual signs the form;

27 (b) State whether the individual is a resident of Oregon;

28 (c) Provide a mailing address;

29 (d) State that the individual consents to the jurisdiction of the circuit courts of Oregon for the
30 purpose of an action to obtain a judgment of dissolution or annulment of the domestic partnership
31 or for legal separation of the partners in the domestic partnership, or for any other proceeding re-
32 lated to the partners' rights and obligations, even if one or both partners cease to reside in, or to
33 maintain a domicile in, this state;

34 (e) **Indicate the individual's name after domestic partnership as provided in section 8,**
35 **chapter 99, Oregon Laws 2007;**

36 [(e)] (f) Sign the form with a declaration that representations made on the form are true, correct
37 and contain no material omissions of fact to the best knowledge and belief of the individual; and

38 [(f)] (g) Have a notary public acknowledge the individual's signature.

39 (6) Both partners' signatures must be affixed to one Declaration of Domestic Partnership form.
40 Filing an intentionally and materially false Declaration of Domestic Partnership is punishable as a
41 misdemeanor.

42 (7) The county clerk may accept any reasonable proof of an individual's age satisfactory to the
43 clerk. The clerk may require proof of age by affidavit of some individual other than either of the
44 parties seeking to file the Declaration of Domestic Partnership if the clerk deems it necessary in
45 order to determine the age of the individual to the clerk's satisfaction.

1 (8) The county clerk may not register a Declaration of Domestic Partnership or return a copy
2 of the registered form and a Certificate of Registered Domestic Partnership to the partners until the
3 provisions of this section, section 7, **chapter 99, Oregon Laws 2007**, [of this 2007 Act] and all other
4 legal requirements are complied with.

5 (9) Notwithstanding ORS 432.121 or any other provision of law, the registry of domestic part-
6 nerships maintained by a county clerk is a public record and subject to full disclosure.

7 **SECTION 4.** Section 8, chapter 99, Oregon Laws 2007, is amended to read:

8 **Sec. 8.** (1) Upon entering into a domestic partnership, either [*individual may retain the individ-*
9 *ual's prior surname, and either individual may resume the individual's prior legal name during the*
10 *domestic partnership.*] **party to the domestic partnership may retain the party's surname prior**
11 **to the domestic partnership or change the party's surname to the surname of the other**
12 **party or to a hyphenated combination of the surnames of both parties. If a party requests**
13 **a surname change under this section, that party may also change the party's middle name**
14 **to the party's surname prior to the domestic partnership. Each party must indicate on the**
15 **Declaration of Domestic Partnership the party's name after domestic partnership.**

16 (2) The name of each party after domestic partnership as indicated on the Declaration
17 of Domestic Partnership shall become the sole legal name of each party after domestic
18 partnership. If a party indicates a name change other than as described in subsection (1) of
19 this section, the party shall request approval of the court pursuant to ORS 33.410.

20 **SECTION 5.** Section 6 of this 2009 Act is added to and made a part of ORS chapter 316.

21 **SECTION 6.** (1) As used in this section:

22 (a) "Health insurance benefit" means the amount included in the federal taxable income
23 of an employee for insurance coverage for the employee's partner.

24 (b) "Partner" and "domestic partnership" have the meaning given those terms in section
25 3, chapter 99, Oregon Laws 2007.

26 (2) To derive taxable income, there shall be subtracted from federal taxable income any
27 amount that is included in a taxpayer's federal taxable income for a health insurance benefit
28 paid by the taxpayer's employer for health insurance coverage of a person during the tax
29 year, if:

30 (a) The person was eligible to register as the partner of the taxpayer on February 1, 2008;

31 (b) The person registered with the taxpayer in a domestic partnership on or before De-
32 cember 31, 2008; and

33 (c) A health insurance benefit was paid for coverage provided to the person prior to
34 February 1, 2008, and was not taxable under state law as in effect and applicable prior to
35 February 1, 2008.

36 (3) For any domestic partnership that was dissolved or annulled during 2008, a taxpayer
37 may not claim the subtraction allowed under this section for any health insurance benefit
38 paid for a time period beginning after the dissolution or annulment.

39 **SECTION 7.** The amendments to sections 3 and 4, chapter 99, Oregon Laws 2007, by
40 sections 1 and 2 of this 2009 Act apply to declarations of domestic partnership entered into
41 before, on or after the effective date of this 2009 Act.

42 **SECTION 8.** The amendments to sections 6 and 8, chapter 99, Oregon Laws 2007, by
43 sections 3 and 4 of this 2009 Act become operative January 1, 2010.

44 **SECTION 9.** Section 6 of this 2009 Act applies to tax years beginning on or after January
45 1, 2008, and before January 1, 2009.

1 **SECTION 10.** The county clerk or the State Registrar of the Center for Health Statistics
2 may take any action before January 1, 2010, that is necessary to enable the clerk or registrar
3 to exercise, on and after January 1, 2010, all the duties, functions and powers conferred upon
4 the clerk or registrar by the amendments to sections 6 and 8, chapter 99, Oregon Laws 2007,
5 by sections 3 and 4 of this 2009 Act.

6 **SECTION 11.** This 2009 Act takes effect on the 91st day after the date on which the
7 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

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